

### REMARKS

1           Applicant greatly appreciates the Examiner's Notice of Allowance of claim 26.  
Claims 1-8, 10-15, 17, 21-26 and 28-30 remain in this application for the Examiner's  
consideration. Claims 1 and 25 have been amended and claims 18, 19 and 27 have  
5       been canceled without prejudice. Claim 30 has been added to recite many of the same  
limitations as allowed claim 26. Claim 30 recites at least one exercise attachment  
means on the foot supporting portion. Claim 30 also recites first and second tubular  
members. Applicant asserts that this combination of structure is allowable over the  
Examiner's cited art for many of the same reasons claim 26 is allowable.

10           The Examiner rejected claims 1, 17-19, 21, 23, 25 and 27-29 under 35 U.S.C. §  
102(b) as being anticipated by Tong et al. Even though applicant believes that the  
claims are clearly allowable as written, applicant has amended claim 1 and canceled  
claims 18, 19 and 27 to clarify the present invention for the Examiner and expedite this  
15       matter. Regarding claim 1, claim 1 has been amended to recite that the lower portion  
has an upper end and a substantially rigid parabolic-shaped lower end. Claim 1 has  
been further amended to recite that the upper end of the lower portion has an elongated  
recessed area formed therein. The recessed area is defined by a forward end, a  
20       rearward end and generally vertical opposite sides. Claim 1 has also been amended to  
recite that a foot supporting and retaining portion is operatively secured to the opposite  
side walls of the elongated recessed area for maintaining a person's foot in the  
recessed area. Applicant believes that Tong does not teach or otherwise disclose these  
limitations. Tong teaches a bouncing boot having a resilient bouncing element with a  
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1 hemispheric lower portion mounted in a fixed position on the underside of a platform. If  
the resilient bouncing portion was a rigid parabolic shape as described in the present  
invention, the bouncing boot described in Tong would not work. Moreover, Tong does  
not teach an elongated recessed area in the upper end of the lower portion. In that  
5 Tong does not teach a recessed area, Tong clearly does not teach a foot supporting  
and retaining portion operatively secured to the side walls of the elongated recessed  
area.

10 With regard to claim 17 of the present invention, claim 17 recites that the foot  
supporting and retaining portion is selectively removably secured to the lower end.  
Applicant asserts that Tong does not teach or otherwise disclose that the boot portion is  
removable from the lower end portion. Tong does teach that the boot portion is  
adjustable. However, the adjustability of the boot is not the same as the foot supporting  
and retaining portion being removable from the lower portion. Also, claim 17 depends  
15 from independent claim 1. Claim 1 is allowable for the same reasons set forth above  
and therefore, applicant asserts that claim 17 is also allowable for those same reasons.

20 Regarding claim 25 of the present invention, claim 25 is an independent claim  
that recites many of the same limitations as independent claim 1. Applicant believes  
that claim 25 is allowable for many of the same reasons set forth above in support of  
claim 1. Tong simply does not teach that the upper end of the lower portion has an  
elongated recessed area formed therein. Tong also does not teach that the recessed  
area is defined by a forward end and a rearward end and generally vertical opposite  
side walls. Furthermore, Tong does not teach that a foot supporting and retaining  
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1 portion is operatively secured to the side walls of the elongated recessed area for supporting and retaining a person's foot in the recessed area.

5 Independent claim 28 recites that the foot supporting and retaining portion includes a recessed portion having a forward end, a rearward end and opposite sides. Claim 28 continues by reciting that an arcuate, inverted U-shaped member extends over the forward end of the recessed portion. Again, as more fully set forth above, Tong merely teaches a boot mounted to a platform. Tong does not teach a recessed portion. In that Tong does not teach a recessed portion, Tong does not teach or otherwise disclose an arcuate, inverted U-shaped member that extends over the front end of the recessed portion.

10 Claim 21 of the present invention recites that a heel retainer is adjustably positioned rearwardly of the U-shaped member. Again, as more fully set forth above, Tong does not teach or otherwise disclose a heel retainer that is adjustable. Tong merely teaches a boot mounted to a platform. With regard to claim 23, claim 23 recites that the U-shaped member is secured to the upstanding walls. Tong clearly does not teach a U-shaped member secured to upstanding walls. Tong merely teaches a boot member. Moreover, claims 21 and 23 depend from independent claim 28. Claim 28 recites a recessed portion having a forward end, a rearward end and opposite sides. Insofar as claims 21 and 23 depend from independent claim 28, applicant believes the same are also allowable for the reasons set forth above in support of independent claim 28.

1 Claim 29 is an independent claim which recites that the foot supporting and  
retaining portion includes a recessed portion having a forward end, a rearward end and  
opposite side walls. Independent claim 29 continues by reciting that the recessed  
portion is concaved. Claim 29 also recites that the recessed portion has upstanding  
5 walls at the opposite sides. Tong does not teach a recessed portion. In that Tong does  
not teach a recessed portion, Tong clearly does not teach a recessed portion that is  
concaved or a recessed portion that has upstanding walls at the opposite sides.  
Accordingly, applicant asserts that claims 1, 17, 21, 23, 25 and 28-29 are allowable over  
the Examiner's 35 U.S.C. § 102(b) rejection in view of Tong.

10 The Examiner rejected claims 1-4 and 17 under 35 U.S.C. § 103(a) as being  
unpatentable over Seel in view of Hoyle. There is no suggestion in either of the  
references that they may be combined in the manner suggested by the Examiner.  
Furthermore, even if the Examiner's proposed combination could be made, the  
15 proposed combination fails to teach many of the limitations of amended claim 1. As  
more fully set forth above, claim 1 has been amended to recite that the upper end of the  
lower portion has an elongated recessed area formed therein. The recessed area is  
defined by a forward end, a rearward end and generally vertical opposite side walls.  
Claim 1 has also been amended to recite that a foot supporting and retaining portion is  
20 operatively secured to the opposite side walls of the elongated recessed area for  
maintaining a person's foot in the recessed area. Neither Hoyle nor Seel teach such a  
recessed area, side walls or a foot supporting and retaining portion operatively secured  
to the side walls.

1 In anticipation of the Examiner's reliance on the combination of Hoyle, Seel, Kost  
and Timko in rejecting claims 1-4 and 17, applicant asserts that the same are not  
combinable in the manner suggested by the Examiner. Furthermore, claim 1  
specifically recites an elongated recessed area in the upper end of the lower portion.  
5 Claim 1 also recites that this recessed area is defined by a forward end, a rearward end  
and generally vertical opposite side walls. Claim 1 continues by specifically reciting that  
a foot supporting and retaining portion is operatively secured to the opposite side walls  
of the elongated recessed area for maintaining a person's foot in the recessed area.  
Neither Kost nor Timko teach this limitation. Kost merely teaches two foot plate  
10 members that are cup shaped. Kost does not teach that the upper end of the lower  
portion has an elongated recessed area. Also, Kost does not teach that a foot retaining  
portion is secured to the side members of a recessed area. Regarding Timko, Timko  
teaches manicure and pedicure support trays. For the same reasons set forth above to  
15 distinguish Kost, applicant asserts that Timko does not teach the limitations of  
independent claim 1.

Claim 2 recites that at least one exercise attachment means is provided on the  
foot supporting and retaining portion. Claim 3 recites that the exercise attachment  
20 means has a receiving means for receiving a weight means thereon. Claim 4 recites  
that the receiving means comprises an upstanding pipe stub and claim 17 recites that  
the foot supporting and retaining portion is selectively removably secured to the lower  
portion. Applicant asserts that these limitations are not taught or otherwise suggested  
by any combination of art that the Examiner might propound. Moreover, claims 2-4 and  
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17 ultimately depend from independent claim 1. Claim 1 is allowable for the reasons set forth above and therefore applicant asserts that claims 2-4 and 17 are allowable for those same reasons.

The Examiner rejected claims 5-7, 10-15 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Seel et al. in view of Hoyle et al. and further in view of Little. The Examiner's rejection depends from the Examiner's rejection of claim 1 under 35 U.S.C. § 102 and 103. Applicant asserts that claim 1 is allowable over the Examiner's rejections for the reasons set forth above. Accordingly, claims 5-7, 10-15 and 24 are also allowable. Moreover, there is no suggestion in either of the references that they may be combined in the manner suggested by the Examiner. Even if there was such a suggestion, the Examiner's proposed combination still fails to teach all of the limitations of claims 5-7, 10-15 and 24. Claim 6 recites that the upper end of the first tubular member has a hand grip portion thereon. Claim 7 recites that the first tubular member has weights mounted thereon. Claim 11 recites that a plurality of exercise attachment receiving means are provided on the foot supporting and retaining portion. Claim 12 recites that each of the exercise attachment receiving means comprises a pipe stub. Applicant asserts that none of the Examiner's cited art teaches or otherwise suggests these limitations.

Specifically regarding claim 5, claim 5 recites that a first elongated tubular member, having upper and lower ends, has its lower end received by the pipe stub and extends upwardly therefrom. This limitation is not taught or otherwise suggested by the Examiner's cited art. Note that the elongated tubular members disclosed in Little are

1 connected directly to a bracket. Little does not teach an elongated tubular member  
received by a pipe stub. Regarding claim 10, claim 10 recites a plurality of over lapping  
tubular members secured to the pipe stub and extending upwardly therefrom. None of  
the Examiner's cited art teaches that a plurality of tubing members overlap. Claim 13  
5 recites that the foot supporting and retaining portion has a forward end, a rearward end  
and opposite sides, and wherein a pipe stub extends upwardly from the foot supporting  
and retaining portion at its forward end and at each of its sides adjacent the forward end  
thereof. Again, as set forth above, none of the Examiner's cited art teaches a retaining  
portion that has a forward end, a rearward end and opposite sides. Also, the  
10 Examiner's cited art does not teach or otherwise render obvious pipe stubs that extend  
upwardly from the foot supporting and retaining portion at the forward end and at the  
sides of the foot supporting and retaining portion. The only pipe stub disclosed by the  
Examiner's cited art is disclosed in Hoyle. The pipe stub disclosed in Hoyle is disposed  
15 laterally outwardly from the forward end of the foot portion.

With regard to claim 14 of the present invention, claim 14 recites a horizontally  
extending pipe stub that extends forwardly from the pipe stub located at the forward end  
of the foot supporting and retaining portion. Claim 15 recites a pipe stub that extends  
outwardly from the foot supporting and retaining portion rearwardly of the pipe stub  
20 located at the forward end thereof. Claim 24 recites that the pipe stub which extends  
upwardly from the foot supporting retaining portion rearwardly of the pipe stub located at  
the forward end thereof is selectively removable. Again, as previously stated, the only  
pipe stub disclosed by the Examiner's cited art is disclosed in Hoyle. Hoyle merely  
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1 teaches a single pipe stub which is disposed laterally outwardly from the forward end of  
the foot portion. In that Hoyle only teaches a single pipe stub, Hoyle cannot possibly  
teach a plurality of positioned pipe stubs nor a removable pipe stub. Accordingly,  
applicant asserts that claims 5-7, 10-15 and 24 are clearly allowable over the  
Examiner's 35 U.S.C. § 103(a) rejection.

5 Claims 18-19 and 25 were rejected under 35 U.S.C. § 103(a) as being  
unpatentable over Seel et al. in view of Hoyle et al. and further in view of Kost and  
Timko. As set forth above, claims 18 and 19 have been canceled without prejudice.  
With regard to independent claim 25, applicant relies on the above-stated argument in  
10 opposition to the Examiner's rejection of claims 1-4 and 17.

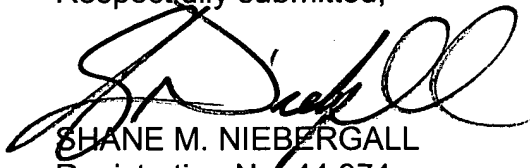
The Examiner rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable  
over Seel et al. in view of Hoyle et al. and Little as applied to claim 5, and further in view  
of Boggild. Applicant believes that the references are not combinable in the manner  
15 suggested by the Examiner. Boggild teaches a mounting device for a gymnastics pole.  
Such a device is not in the same field of endeavor as Seel, Hoyle or Little. Therefore,  
applicant asserts that a person of ordinary skill in the art who is concerned with ankle  
exercise devices would not consider a reference such as Boggild which is entirely  
unconcerned with ankle exercise devices. Furthermore, claim 8 ultimately depends  
20 from independent claim 1. Claim 1 is allowable for the reasons set forth above and  
therefore applicant asserts that claim 8 is also allowable for those same reasons.



1 In light of the above amendments and remarks, applicant asserts that the claims  
are in condition for allowance. Applicant respectfully requests reconsideration and  
allowance of the same.

5 No fees or extensions of time are believed to be due in connection with this  
amendment; however, consider this a request for any extension inadvertently omitted,  
and charge any additional fees to Deposit Account No. 502093.

Respectfully submitted,



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15 CERTIFICATE OF MAILING

I hereby certify that the original of this AMENDMENT for STUART G. OXFORD,  
Serial No. 09/772,029, was mailed by first class mail, postage prepaid, to Mail Stop  
Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA  
22313-1450 on this 30<sup>th</sup> day of APRIL, 2004.



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